

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 20980**

Application 30609 of William J. and Carol J. McDowell

4731 Bodega Avenue, Petaluma, CA 94559

filed on April 10, 1997, has been approved by the State Water Resources Control Board  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream(s)

Petaluma River thence

San Pablo Bay

2. Location of point of diversion  By California Coordinate in Zone: 2	40-acre subdivision of public land survey or projection thereof	(Projected) Section	Township	Range	Base and Meridian
1) North 219,350 feet and East 1,793,350 feet	SE¼ of NE¼	22	5N	8W	MD
2) North 219,400 feet and East 1,792,250 feet	SE¼ of NE¼	22	5N	8W	MD
3) North 219,500 feet and East 1,791,350 feet	SW¼ of NE¼	22	5N	8W	MD

County of Sonoma

3. Purpose of use:	4. Place of use:	(Projected) Section	Township	Range	Base and Meridian	Acres
Recreation Fire Protection	At Reservoirs #1,2 & 3 within NE¼ of Projected Section 22	22	5N	8W	MD	
Frost Protection Irrigation	300 acres located within projected Sections 15 and 22, T5N, R82, MDB&M					

The place of use is shown on map dated April 10, 1997 on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 147 acre-feet per annum to be collected from November 15 of each year to March 15 of the succeeding year as follows: 49 acre-feet per annum in Reservoir #1, 49 acre-feet in Reservoir #2, and 49 acre-feet per annum in Reservoir #3.

The capacities of the reservoirs covered by this permit shall not exceed the capacities stated in the application, unless the excess capacity is authorized by another permit or license, or unless the Chief of the Division of Water Rights pre-approves a plan that monitors excess storage using water not subject to State Water Resource Control Board's permitting authority.

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

7. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

8. Construction work shall be completed by December 31, 2003. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 2008. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1)adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2)the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "taking" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)

15. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

16. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing. (0000042)

17. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel or provide other means satisfactory to the State Water Resources Control board, in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes or alternative facilities to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence, which substantiates that the outlet pipes or alternative facilities have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0000043)

18. Permittee shall have an erosion control plan and implementation schedule prepared by a registered civil or agricultural engineer for the place of use and reservoirs sites. The plan shall be submitted to and approved by either the County of Sonoma or the Chief of the Division of Water Rights prior to the start of any construction or grading. Before storing water in the reservoir or planting the vineyard, permittee shall furnish evidence which substantiates that the erosion control plane has been implemented. Evidence includes photographs showing the project area vegetation and slopes. (0400500)

19. No project related work shall begin or water diverted under this permit until permittee has submitted to the Chief of the Division of Water Rights plans for the construction of the three proposed dams. The plans shall be prepared by a registered civil or agricultural engineer that address erosion control and stability during a seismic events. (0400500)

20. For the maintenance of oak woodland, permittee shall plant three oak trees for every one oak tree removed. Trees may be planted in groves in order to maximize wildlife benefits and shall be native oaks to the Sonoma County. The Department of Fish and Game shall approve the species and planting scheme prior to the planting. Copies of the approved scheme shall be provided to the Chief of the Division of Water Rights.

Five years after completion of the tree planting program, photograph documentation showing the trees shall be submitted to the Division of Water Rights. Permittee shall replace plants as needed to assure a 75 percent survival rate. (0400500)

21. The total quantity of water diverted under this permit, together with that diverted under the permits issued pursuant to Application 20855, shall not exceed 147 acre-feet per annum. (0000114)

22. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

*Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.*

*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

**Dated:** November 24, 1998

STATE WATER RESOURCES CONTROL BOARD

Chief, Division of Water Rights

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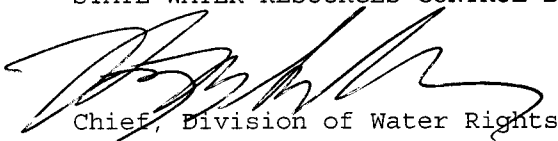
*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

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Dated: **NOVEMBER 24 1998**

STATE WATER RESOURCES CONTROL BOARD

  
Chief, Division of Water Rights